



DECISION MEMO
McFARLAND FENCE
U.S. FOREST SERVICE
SPRING MOUNTAINS NATIONAL RECREATION AREA
HUMBOLDT-TOIYABE NATIONAL FOREST
CLARK COUNTY, NEVADA

BACKGROUND/PURPOSE AND NEED

The Wild Free-Roaming Horses and Burros Act (PL 92-195) was signed into law on December 15, 1971, providing a federal management protection and control program for wild horses and burros. The law protects these animals within designated territories on lands administered by the Secretary of the Interior through the Bureau of Land Management (BLM) or by the Secretary of Agriculture through the Forest Service (FS) and mandates that wild horses and burros be managed in ecological balance with the land and as part of the natural landscape. There are three such territories jointly managed by the BLM and the FS in and around the Spring Mountains National Recreation Area (SMNRA), all of which are outside of designated Wilderness. The SMNRA General Management Plan (GMP), a 1996 amendment to the Toiyabe National Forest Land and Resource Management Plan (LRMP) provides direction to keep wild horses out of wilderness. Wild horses and burros cause impacts to the natural character of Wilderness by trampling vegetation and wallowing in springs.

Wild horses on the SMNRA, an introduced and acceptable non-native species, leave their territories and travel through McFarland Canyon into the Upper Lee Canyon Area and the Mt. Charleston Wilderness Area, both of which are located on the SMNRA. Functioning wild horse exclusion fences were installed in Lee Canyon area (before 2003) and in the Macks Canyon area (around 2006) to keep wild horses and burros outside of the developed canyons and designated Wilderness, pursuant to direction in the SMNRA GMP. These fences are still in place and functional.

Forest Plan Direction

Management direction for wilderness on the SMNRA was revised by an amendment to the SMNRA 1996 GMP with the 2013 decision on the LaMadre Mountain and Rainbow Mountain Wilderness Management Plan. Management direction provides that wild horses and burros in wilderness be managed through various mitigation measures to prevent further degradation to resources resulting from wild horse or burro encroachment and to restore wilderness character.

In development of this proposal, the Interdisciplinary Team (IDT) considered the following forest plan direction for management of wild horses and burros:

- Keep wild horses and burros out of the Wilderness. (GMP Management Area 12, pg. 37)
- Manage wild horses and burros in a thriving ecological balance with long-term ecosystem health. (GMP SMNRA-wide DFC, pg.9)

- Areas with high biodiversity and/or a number of species of concern are protected from development of facilities and trails, and impacts from wild horses and burros. (GMP SMNRA-wide DFC, pg. 13 and GMP Management Area 11 – Developed Canyons DFC, pg. 29)
- Wild horse and burro populations are at appropriate management levels that are sustainable and in balance with the long-term ecosystem health of the Spring Mountains. (GMP SMNRA-wide DFC, pg. 15)
- Wild horses and burros are excluded from areas outside their territory, from riparian areas, highways, and other sensitive areas or areas where their presence poses a threat to public safety or themselves. (GMP SMNRA-wide DFC, pg. 15)
- Wild horses are not found within the wilderness. (GMP Management Area 12 – Mt. Charleston Wilderness DFC, pg. 38)
- Exclusion of wild horses from Upper Lee Canyon allows the restoration of degraded habitat and removes the threat of direct mortality to individual Mt Charleston Blue Butterfly (MCBB) larvae and pupae and degradation of habitat. (US Fish & Wildlife Service Listing Letter, September 18, 2013)

Purpose and Need for the Project

The issues raised by the on-the-ground conditions are outlined below as a Statement of Need, which forms the foundation for the project's purpose.

Purpose for Action - The purpose of this project is to prevent wild horse entry into Upper Lee Canyon and the Mt. Charleston Wilderness through McFarland Canyon. This project would effectively contribute to the viability of the MCBB by preventing wild horses from impacting sensitive butterfly habitat in Upper Lee Canyon. Excluding wild horses from entering the Wilderness through McFarland Canyon would also contribute to the protection of cultural resources, sensitive resources associated with springs, and the natural character and ecological integrity of the Mt. Charleston Wilderness.

Statement of Need for Action -The Mt. Charleston Wilderness is outside of the Spring Mountain Wild Horse and Burro Territory (WHBT). There is a need for excluding wild horses from entering the Wilderness where their presence impacts the natural character of the Mt. Charleston Wilderness.

Wild horses can cause resource damage by trampling, grazing and defecating in sensitive species habitats, resulting in loss and degradation of habitat. In Upper Lee Canyon, horses congregate at the Las Vegas Ski and Snowboard Resort (LVSSR) and Lee Meadows, two areas that contain habitat for the MCBB. Both LVSSR and Lee Meadows are outside the WHBT territories. On October 21, 2013, the U. S. Fish and Wildlife Service (USFWS) listed MCBB as endangered under the Endangered Species Act. On July 15, 2014, the USFWS published the Proposed Rule for designation of critical habitat for MCBB. In the Proposed Rule for designation of critical habitat for MCBB, the USFWS listed trampling or grazing by wild horses of the MCBB larval host or nectar plants, loss and degradation of MCBB habitat resulting from said trampling or grazing, and direct mortality of MCBB as potential threats to the continued viability of the butterfly. USFWS listed removal or exclusion of wild horses in MCBB habitat as a management activity that could reduce these threats.

Wild horses are congregating at spring sources and are trampling sensitive spring habitat; water quality is degrading and erosion is occurring as horses move down banks to access the springs. Piles of manure left by horses leach phosphorus and nitrogen into the soil creating micro-habitats for noxious weeds. This, in turn, facilitates dispersal of noxious weed seeds.

DECISION

I have decided to authorize construction of a temporary fence, built of native materials (to the extent possible), in the Mt. Charleston Wilderness at a pinch-point located in McFarland Canyon between two canyon walls. The objective of the fence will be to exclude wild horses from the Wilderness and Upper Lee Canyon, but not exclude wild horses from other areas where access to water and forage are available. A Minimum Requirements Decision Guide (MRDG) was prepared and approved by the Regional Forester to address construction of an improvement in the Wilderness. The fence will be wildlife-friendly for elk and mule deer passage and will include a gate to allow for recreation access through the canyon.

The fence will be a wood post-and-rail design with three rails per panel. More than three rails may be necessary in some areas. Each fence panel is approximately 8-feet in width having posts spaced approximately 6 to 8-feet apart. The fence height will be between 40-46 inches. The fence will be approximately 120 feet total length from end to end and will butt up against (but not connected to) the rock cliff faces. This fence will be constructed using mostly native and natural materials.

Fence materials will be transported by motorized vehicles to the end of the authorized motorized route close to the Wilderness boundary. From the Wilderness boundary the materials will be moved by pack stock and trail workers to the fence construction location. Generally accepted wilderness construction methods will be used in the actual construction of the fence including use of hand tools.

In addition to the actions outlined above, the following mitigation measures will be implemented as directed by the Regional Forester's decision on the (MRDG):

- Fence inspections will be by non-motorized means at least once a year, preferably in the spring after snowmelt when horses might try to access McFarland Canyon.
- The fence will be repaired annually, or more frequently if needed, using hand tools and non-motorized access methods.
- Horse numbers, spring conditions, and other resources will be monitored to determine if wild horses are being kept out of the wilderness and if natural conditions are improving as a result.
- The fence could be removed in the future if monitoring determines it does not achieve its intended goal of excluding wild horses.
- Over the longer term, when management actions such as a Herd Management Plan result in an effective solution to wild horse populations and impacts, the fence will be removed.
- Develop and implement appropriate interpretive messaging and outreach prior to, during, and after the project. This is an opportunity to explain to the broader public that wilderness is managed differently than other public lands, and that the FS carefully

considered impacts to wilderness character prior to authorizing the work. We need the public's help to ensure the fence is not vandalized and the gate is reliably closed.

Design Criteria

The Design Criteria are proactive measures incorporated into project design and implementation to reduce or eliminate possible undesirable effects of the project on forest resources.

Botany: Prior to implementation, crews will meet with a qualified botanist or ecologist on the SMNRA staff to coordinate on sensitive species identification, techniques to minimize impacts to sensitive species and habitats, and notification procedures if Threatened and Endangered Proposed, Candidate, or R4 Sensitive Species (TESP) species are encountered. This will minimize accidental destruction of TESP species and degradation of sensitive habitat.

Wildlife: The fence height will be between 40-46 inches and may vary with slope. The center rail is centered between the top and bottom rail as much as possible. This will minimize accidental injury to mammals and birds.

If construction activities, including tree falling, occur during migratory bird breeding season (March 15-September 14), a qualified biologist who is familiar with the birds of southern Nevada and can accurately identify nesting and breeding behaviors will conduct nest searches in the project area. To the extent possible, appropriate buffers will be designated for any nests located based on the species' habitat requirements.

Invasive Species & Weed Prevention: USFS and Humboldt-Toiyabe NF Best Management Practices (Humboldt-Toiyabe Supplemental FSM 2080) will be employed during project implementation to prevent and control the introduction and spread of invasive species.

Any new infestations of noxious weeds discovered during implementation will be documented, locations marked on a map or GPS and avoided by crews.

Extraordinary Circumstances

I find that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. I took into account the following information and resource conditions identified in agency regulations that must be considered in determining whether extraordinary circumstances might exist:

- Federally listed threatened or endangered species or designated critical habitat, species proposed for federal listing or proposed critical habitat, or Forest Service sensitive species.

A Biological Evaluation (BE) was completed for FS R4 Sensitive Species and species identified in a Conservation Agreement (CA) (1998) between the FS and USFWS. On June 11, 2014, the SMNRA Wildlife Biologist and Botanist visited McFarland Canyon and three proposed fence locations, including the one presented in the public scoping document, to determine whether there were any of the following at-risk species present: Regional Forester's (R4) Sensitive species, CA species of concern, or Clark County Multiple Species Habitat Conservation Plan (MSHCP) covered species. Five at-risk species occur in the project area: Charleston Mountain goldenbush, Charleston lousewort, Clokey's milkvetch, Charleston grounddaisy, and Charleston violet. Project design criteria will minimize impacts to these species that occur in the project area. In addition,

the proposed fence will beneficially effect at-risk species that do not occur in the project area but do occur where wild horses forage outside of their established territories.

A Biological Assessment (BA) was completed for Threatened and Endangered Species. There were no butterfly host or nectar plants observed during the field visit; therefore, the FS biologist determined the project and proposed mitigation measures may affect but will not likely adversely affect the MCBB.

In a letter dated April 14, 2015, the USFWS concurred with the FS determinations in the BE and the BA.

- Flood plains, wetlands, or municipal watersheds. There are no federally designated flood plains, wetlands, or municipal watersheds in the project area.
- Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas. The project is within the Mt. Charleston Wilderness. This proposal was analyzed pursuant to the requirements of a Minimum Requirements Decision Guide (MRDG). An MRDG must be completed for management decisions in wilderness to permit only actions “...*necessary to meet minimum requirements for the administration of the area for the purpose of the Wilderness Act*” (Section 4.(c) of the 1964 Wilderness Act). A decision on the MRDG analysis authorizing construction of the fence, with stipulations as stated herein, was signed by the R4 Regional Forester on April 11, 2014. The Proposed Action meets the requirements for and aligns with the protection of wilderness character.
- Inventoried roadless areas or potential wilderness areas. The project is not within an inventoried roadless area or potential wilderness area.
- Research natural areas. The project is not within a research natural area.
- American Indians and Alaska Native religious or cultural sites. The FS conducted government-to-government consultation for the McFarland Fence project with the Native American Tribes culturally affiliated with the SMNRA. The SMNRA tribal liaison mailed a one-page project description to each member of the Southern Nevada and Southern Utah Paiute and Chemehuevi tribally-approved body called the Nuwuvi Working Group, and each Tribal Chair. The tribal liaison followed up with a phone call to each tribal representative to answer questions and receive comments. A couple members of the Nuwuvi Working Group had personal concerns about the project. I discussed the project and their concerns with both individuals. In the end, neither of the Tribal Chairs elected to follow up with submitted formal comments. A record of the contacts is contained in the project record.
- Archaeological sites or historic properties or areas. The area proposed for the McFarland fence was surveyed for archaeological resources in May 2012. No archaeological features or sites were located in or near the project area during the survey; therefore, there was no need to consult with the Nevada State Historic Preservation Office. Should any prehistoric or historic artifacts or features be discovered during the implementation of the project, work in that section will stop until the area is investigated by the District Archaeologist.

Categorical Exclusion

This action is categorically excluded from documentation in an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). The applicable category of actions is identified in agency procedures as 36 CFR 220.6(e)(6), which allows for timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than one mile of low standard road. This category of action is applicable because the activities as outlined fit within the identified categorical exclusion.

PUBLIC INVOLVEMENT

On December 19, 2014, notice of the project proposal was forwarded to interested and affected parties via email and US Mail. Comments were accepted through February 2, 2015. Only one comment was received expressing concern that all wild horses and burros be treated humanely.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision is consistent with the Toiyabe National Forest LRMP and the SMNRA GMP, an amendment to the Toiyabe LRMP. The project was designed in conformance with the direction in these forest plans.

The proposal complies with all laws and Executive Orders affecting National Forest management, including the following:

- National Environmental Policy Act, as amended (42 USC §§4321-4347);
 - The Wilderness Act of 1964 ((16 U.S. C. 1131-1136; Pub.L. 88-577);
 - Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S. Code § 1331; Pub.L. 92-195)
 - National Historic Preservation Act (16 USC 470) and its parallel authority, Protection of Historic Properties (36 CFR 800);
 - Endangered Species Act (16 USC 1531-1543);
 - Noxious Weed Act, as amended (7 USC. 2801, et seq.);
 - Spring Mountains National Recreation Area Act (16 U.S.C. §460hhh; Pub. L. 103-63, Aug. 4, 1993, 107 Stat. 297); and
 - Executive Order 12898, Environmental Justice (Feb. 11, 1994, 59 Fed. Reg. 7629).
- There will be no adverse effects on health, human safety, consumers, minorities, civil rights, American Indian rights, or women's rights.

The project is consistent with the following policies and guidance relating to the implementation of this project:

- Conservation Agreement for the Spring Mountains National Recreation Area (April 13, 1998); and
- Clark County Multiple Species Habitat Conservation Plan Environmental Impact Statement (September 2000).

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

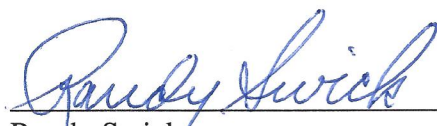
This decision is not subject to appeal in accordance with the Consolidated Appropriations Act of 2014 (Public Law No. 113-76, 128 Stat. 5, (2014)).

IMPLEMENTATION DATE

This project may be implemented immediately.

CONTACT

For additional information concerning this decision, contact: CJ Woodard, Natural Resource Staff Officer, Spring Mountains NRA, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, 702-515-5429.



Randy Swick
Area Manager

Spring Mountains National Recreation Area
Humboldt-Toiyabe National Forest

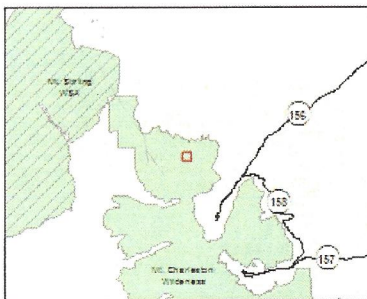
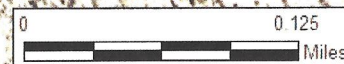
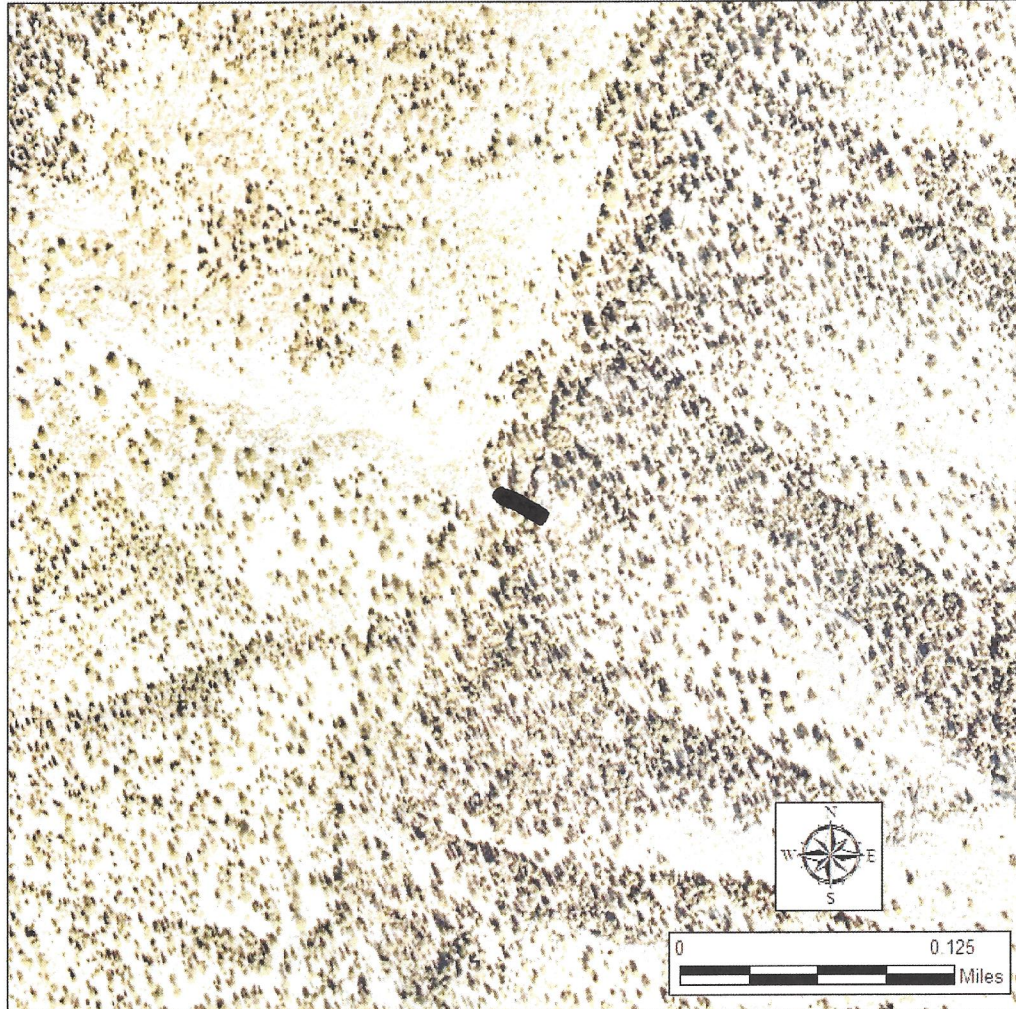


Date

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APPENDIX A

McFarland Fence Location May 2015



T18S, R56E, Sec.29
S 1/2, NE1/4

Legend

 Fenceline

